



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John McCann for Congress
Ralph A. Contini, Treasurer
P.O. Box 1010
Hackensack, NJ 07602

JUL 13 2018

RE: MUR 7334
John McCann for Congress
and Ralph A. Contini, as treasurer

Dear Mr. Contini:

On March 7, 2018, the Federal Election Commission ("Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 11, 2018, based upon the information contained in the complaint and information provided by you, the Commission decided to dismiss allegations that John McCann for Congress, and you, in your official capacity as treasurer, violated provisions of the Act. The Commission then closed its file in this matter. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", with a small "MSDC" written to the right.

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: John McCann for Congress, and MUR 7334
Ralph Contini, as treasurer
(collectively the "Committee")
Mike Strada for Sheriff, and
Kim Strada, as Treasurer
(collectively the "Strada Committee")

I. INTRODUCTION

This matter was generated by a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by the Committee. It was scored as a low-rated matter under the Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint alleges that Mike Strada for Sheriff and Kim Strada, in her official capacity as treasurer (the "Strada Committee") made a prohibited in-kind contribution, which John McCann for Congress and Ralph Contini, in his official capacity as treasurer (the "Committee"),¹ accepted. Specifically, the Complaint alleges that the Strada Committee, a state committee, paid for a February 21, 2018, "Meet & Greet" fundraiser for McCann, and contends that the Strada Committee may have paid for it with funds not subject to the limitations and prohibitions of the Act.² The Complaint included a copy of an invitation flyer for the fundraiser

¹ McCann is a 2018 candidate for the U.S. House of Representatives in New Jersey's Fifth District.

² Compl. at 1 (February 28, 2018). The Complaint also implies, but does not directly allege, that the event in question may have been an excessive in-kind contribution to the Committee. *Id.*

1 that includes the disclaimer “Paid for by Michael Strada for Sheriff.”³ The Committee responds
2 that it paid for the event and reported the disbursement on its 2018 April Quarterly Report.⁴

3 **B. Legal Analysis**

4 Candidates for federal office are prohibited from receiving funds in connection with an
5 election for federal office unless the funds are subject to the limitations, prohibitions, and
6 reporting requirements of the Act.⁵ Candidates for state or local office, or agents of such
7 candidates, are prohibited from spending any funds for a public communication that refers to a
8 clearly identified candidate for federal office, and that promotes or supports any candidate for
9 that federal office, unless the funds are subject to the limitations, prohibitions, and reporting
10 requirements of the Act.⁶ Additionally, political committees are required to file reports of
11 receipts and disbursements with the Commission, including itemizing contributions to the
12 reporting committee from persons whose contribution or contributions have an aggregate amount
13 or value in excess of \$200 within the calendar year.⁷ Itemized in-kind contributions must be
14 reported as both itemized contributions and itemized expenditures on the same report.⁸ The Act
15 and Commission regulations define “contribution” as any “gift ... or anything of value made by
16 any person for the purpose of influencing any election for Federal office.”⁹ “Anything of value”

³ *Id.*, Attach. There is no information that the Committee approved the flyer. Also, the available information does not indicate how much the flyer cost or how many copies were distributed.

⁴ Resp. at 1 (April 30, 2018). The Committee’s disclosure report shows a disbursement dated March 2, 2018, in the amount of \$3,935.03, payable to Island Services III, LLC d/b/a Mohawk House. See John McCann for Congress 2018 April Quarterly Report at 20.

⁵ 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

⁶ See 52 U.S.C. § 30125(f)(1); see also 11 C.F.R. § 300.71.

⁷ 52 U.S.C. § 30104(a), (b)(2)(A), (b)(3)(A); 11 C.F.R. § 104.3(a)(3)(i)(A), (a)(3)(iii), (a)(4)(i), (ii).

⁸ See 11 C.F.R. § 104.13(a)(1), (2).

⁹ 52 U.S.C. § 30101(8)(A)(i); see also 11 C.F.R. § 100.52(a).

1 includes all in-kind contributions.¹⁰ Whenever any person makes a disbursement for a public
2 communication that expressly advocates the election or defeat of a clearly identified candidate,
3 he or she must include a disclaimer.¹¹ Public communications authorized by a candidate, an
4 authorized committee of a candidate, or an agent of either but paid for by another person, must
5 clearly state that the communications were paid for by such person but authorized by the political
6 committee.¹² If the communication is not authorized by a candidate, an authorized political
7 committee of a candidate, or its agents, the communication shall clearly state the name and
8 permanent street address, telephone number, or World Wide Web address of the person who paid
9 for the communication and state that the communication is not authorized by any candidate or
10 candidate's committee.¹³

11 The Committee's Response and its 2018 April Quarterly Report indicate the Committee
12 paid some costs related to the fundraiser, and the face of the invitation shows that the Strada
13 Committee paid for the flyer. Also, the disclaimer on the flyer does not contain all required
14 information. However, in furtherance of the Commission's priorities relative to other matters
15 pending on the Enforcement docket and in light of the modest amounts likely at issue, the
16 Commission dismisses all the allegations consistent with the Commission's prosecutorial
17 discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler*
18 *v. Chaney*, 470 U.S. 821, 831-32 (1985).

¹⁰ 11 C.F.R. § 100.52(d)(1).

¹¹ 52 U.S.C. § 30120; 11 C.F.R. § 110.11(a)(2), (b). *See also* 11 C.F.R. § 110.22. Also, when a person that is not a political committee makes independent expenditures aggregating in excess of \$250 with respect to a given election in a calendar year, they are required to file a report on FEC Form 5. 11 C.F.R. § 109.10(b). However, because there is no information regarding the cost of the flyer, the Commission makes no determination as to this issue.

¹² 52 U.S.C. § 30120(a)(2); *see also* 11 C.F.R. § 110.11(b)(2).

¹³ 52 U.S.C. § 30120(a)(3); *see also* 11 C.F.R. § 110.11(b)(3).